IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA No. 1555 of 2003

DATE OF DECISION: 29 .5.2007

Sampuran Singh ..Appellant

VERSUS

Sewa Singh Chouhan & Ors. ...Respondents

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.R.S.Mamli, Advocate for the appellant

Mr.S.K.Garg Narwana, Advocate
for the respondents.

Permod Kohli,J. (Oral)

This appeal is directed against the judgment and decree dated 17.10.2002 passed by Additional District Judge, Ambala dismissing the appeal of the appellant filed against the judgment and decree dated 25.11.1999 passed by Additional Civil Judge (Senior Division), Ambala.

I have perused the impugned judgments and decrees. Both the courts below have returned concurrent findings of fact. Both the courts below have passed a decree for recovery of Rs.86,700/- with interest at the rate of 12% per annum to be calculated on the decretal amount w.e.f. 30.6.1988 till the

realization. These findings are assailed by the appellant on two grounds. First contention of the learned counsel for the appellants is that under the garb of suit for specific performance on the basis of an agreement, the courts below have decreed the suit on the basis of the pronote which is alleged to have been executed prior to the agreement. The second contention is that the rate of interest awarded by the courts below is on the higher side. Insofar as the first contention is concerned, I do not find any valid ground to interfere with the findings of fact recorded by the courts below. Insofar as the second contention regarding the payment of interest at the rate of 12% per annum is concerned, I am of the opinion that the interest at such a rate is excessive, particularly in a suit for specific performance where the amount of earnest money has been allowed to be refunded. After hearing the learned counsel for both the parties, I am of the considered view that the rate of interest is required to be decreased. The rate of interest is accordingly slashed to 9% per annum. With this modification, the judgments and decrees under appeal are upheld and the present Regular Second Appeal is disposed of.

(PERMOD KOHLI)
JUDGE

29.5.2007
MFK

NOTE: Whether to be referred to the Reporter or not:YES/NO